

**DEPARTMENT
PHILOSOPHY****FIP**

MDHHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

**DEPARTMENT
POLICY****FIP**

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

**NONCOMPLIANCE
WITH EMPLOYMENT
AND/OR SELF-
SUFFICIENCY-
RELATED
ACTIVITIES**

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with Partnership. Accountability. Training. Hope. (PATH) or other employment service provider.
 - Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.

Note: The specialist should clear any alerts in Bridges relating to rejected PATH referrals as well as any FAST confirmation information the client has obtained before considering a client noncompliant.

- Develop a FSSP.

Note: A FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion.
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.

- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

Exception: Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

REFUSING SUITABLE EMPLOYMENT

Refusing suitable employment means doing **any** of the following:

- Voluntarily reducing hours or otherwise reducing earnings.
- Quitting a job (see exception below).

Exception: This does not apply if:

- PATH verifies the client changed jobs or reduced hours in order to participate in a PATH approved education and training program.
- Firing for misconduct or absenteeism (not for incompetence).

Note: Misconduct sufficient to warrant firing includes any action by an employee or other adult group member that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. It includes but is not limited to drug or alcohol influence at work, physical violence, and theft or

willful destruction of property connected with the individual's work.

- Refusing a bona fide offer of employment or additional hours up to 40 hours per week. A bona fide offer of employment means a definite offer paying wages of at least the applicable state minimum wage. The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

Exception: Meeting participation requirements is not good cause for refusing suitable employment, unless the employment would interfere with approved education and training.

See Benefit Delay for Refusing Employment in this item for applicants refusing employment within 30 days prior to the date of application or while the application is pending. See Noncompliance Penalties for Active FIP Cases and Member Add in this item for member adds refusing employment within 30 days prior to the date of application or while the application for the member add is pending.

Do not penalize applicants or member adds who refused employment more than 30 days prior to the date of application or date of member add.

GOOD CAUSE FOR NONCOMPLIANCE

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges on the noncooperation screen as well as in case comments.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH. There is no need for a new PATH referral, unless the good cause was determined after the negative action period.

Good cause includes the following:

**Employed 40
Hours**

The person is working at least 40 hours per week on average and earning at least state minimum wage.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

**Reasonable
Accommodation**

The MDHHS, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

No Child Care

The client requested child care services from MDHHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- **Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- **Suitable provider.** The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the MDHHS Bureau of Children and Adult Licensing must meet MDHHS enrollment requirements; see BEM 704.

- **Affordable.** The child care is provided at the rate of payment or reimbursement offered by MDHHS.

No Transportation

The client requested transportation services from MDHHS, PATH, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs.

**Unplanned Event
or Factor**

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

Comparable Work

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

Long Commute

Total commuting time exceeds:

- Two hours per day, not including time to and from child care facilities **or**
- Three hours per day, including time to and from child care facilities.

**Clients Not
Penalized**

Ineligible caretakers, disqualified aliens, and single parents who cannot find appropriate child care for a child under age six are not required to participate; see BEM 230A for required verification.

**NONCOMPLIANCE
PENALTIES AT
APPLICATION**

Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed; see Benefit Delay for Refusing Employment in this item.

**Benefit Delay for
Refusing
Employment**

If a WEI applicant refuses suitable employment without good cause while the FIP application is pending (**or up to 30 days before the FIP application date**), approve FIP benefits no earlier than the pay period following the pay period containing the 30th day after the refusal of employment.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening.

For the definition of Refusing Suitable Employment see Noncompliance With Employment And/or Self-Sufficiency Related Activities in this item.

Example: Client applies for FIP on May 7. Client refuses work without good cause on May 21. The 30th day from the refusal date is June 20. FIP benefits may not be authorized for any pay period earlier than July 1, as long as all other eligibility requirements have been completed.

If a WEI member add refuses suitable employment without good cause while the FIP member add is pending, close the FIP EDG for the minimum number of penalty months; see Noncompliance Penalties For Active FIP Cases And Member Adds in this item.

**NONCOMPLIANCE
PENALTIES FOR
ACTIVE FIP
INDIVIDUALS AND
MEMBER ADDS**

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count.

Example: In February 2011, Betty started serving her third noncompliance penalty of 12 months, which will end March 2012. After reapplication, if she is determined noncompliant for a fourth occurrence, Bridges will close the FIP EDG for a lifetime sanction.

The sanction period begins with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause in Bridges. This applies to active FIP cases, including those with a member add who is a WEI mandatory participant.

Note: Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete the FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

Individual Penalty Counter

Bridges applies noncooperation penalties at an individual level.

Two parent families will have two individual penalty counters. The FIP EDG penalty is applied based on the individual penalty counter.

Example: Sally has a penalty count of one. Edward has a penalty count of two. If the next penalty results from Sally's noncompliance, the FIP EDG will close for six months. However, if the next penalty results from Edward's noncompliance, the FIP EDG will close for a lifetime sanction.

In a two parent family, one parent has to reach his/her individual penalty count of three for the case to close for a lifetime sanction.

In the first episode of assistance, Sally has a penalty count of one and Edward has a penalty count of one. Sally receives a second penalty count and the case closes for six months. After reapplication, in the second episode of assistance, the next penalty on the case is Edward's second penalty, which closes the case for six months. After reapplication, in the third episode of assistance, Edward receives his third penalty count, which closes the case for lifetime. An individual serving their first or second employment and training sanction is able to apply for FIP benefits only in the last month of their current sanction, in order to be determined eligible for FIP benefits the month after the current sanction ends.

Example: Lenny is serving a sanction that ends 1/31. He applies for assistance on 12/10. As he is applying for benefits effective in January, the application will be denied as he is ineligible in January due to serving a sanction.

Example: Carl is serving a sanction that ends 1/31. He applies for assistance on 1/01. If he meets all eligibility criteria, the application may be approved for February, as his sanction ends on 1/31.

triagePATH participants will not be terminated from PATH without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify PATH case manager of triage day schedule, including scheduling guidelines.

Note: Do not schedule a triage for instances of noncompliance while the FIP application is pending.

Prior to the triage meeting, the specialist should review the following:

- The One-Stop Management Information System (OSMIS) case note and activities that correspond to Bridges noncompliance and sanction records.
- Case notes in the case file and on Bridges.
- Noncooperation records in Bridges reflect the appropriate penalty count.
- Documented triage results on the noncooperation records, to ensure they are consistent with client statements or possible documentation of good cause.

During the triage appointment, review the FAST and FSSP with the client to determine if any identified barriers were not addressed. Document the results in Bridges case notes.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. If the client requests to have an in-person triage, reschedule for one additional triage appointment. Clients must comply with triage requirements and must provide good cause verification within the negative action period.

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with MDHHS or PATH. **Good cause must be considered even if the client does not attend**, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation.

If the specialist or PATH case manager do not agree as to whether good cause exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement. The MDHHS supervisor makes the final determination of good cause.

MDHHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Document in the case file and on Bridges that the case noncompliance history was reviewed.

Note: Clients not under the supervision of PATH, but rather under the department's supervision, must be scheduled for a triage

meeting between the specialist and the client. This does not include applicants.

Note: When a client who is determined by Disability Determination Service (DDS) to be work ready with limitations becomes noncompliant with PATH, schedule a planning triage, which includes all of the following:

- Review the medical packet including the limitations identified by DDS on the DHS-49-A, Medical-Social Eligibility Certification.
- If necessary, revise the FSSP using the limitations identified on the DHS-49-A. Assign medically permissible activities.
- Enter good cause reason *Client unfit* in Bridges on the Noncooperation details screen, if the noncooperation was related to the identified limitation or is an additional identified limitation.

If an individual becomes noncompliant with his/her FSSP assigned activities, follow the instructions in this item, under Noncompliance Penalties For Active FIP Individuals and Member Add.

PROCESSING THE FIP CLOSURE

Follow the procedures outlined below for processing the FIP closure:

- On the night that the one-stop service center case manager places the participant into triage activity, OSMIS will interface to Bridges a noncooperation notice. Bridges will generate a triage appointment at the local office as well as generating the DHS-2444, Notice of Employment And/Or Self-Sufficiency Related Noncompliance, which is sent to the client. The following information will be populated on the DHS-2444:
 - The name of the noncompliant individual
 - The date of the initial noncompliance. (For individuals being served by PATH, this is the date the client was considered to be noncompliant by the one-stop service center and placed into the triage activity in OSMIS.)
 - All the dates, if addressing more than one incident of noncompliance.

- The reason the client was determined to be noncompliant.
- The penalty that will be imposed.
- The scheduled triage appointment, to be held within the negative action period.
- Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the MDHHS or PATH. Document the good cause determination on the Noncooperation Detail Screen within 24 hours of determination.

Note: For manually entered noncooperations, the DHS-2444 will be generated upon the next EDBC run, which will schedule the triage appointment and will place the case into case closure pending the negative action period.

Entering and Tracking Penalty Periods for Active FIP Cases and Member Adds

Immediately following the triage meeting, enter all results at one time in Bridges. Enter the following penalty information for tracking purposes:

Date of the Noncompliance

This is the date the client was considered to be noncompliant by the one-stop service center and placed into the triage component in OSMIS or the date the MDHHS case worker enters a manual noncooperation for a client. This is the date that displays in Bridges as the non-cooperation date. This date will be populated by Bridges for cases that are being served by the one-stop service center, as well as for FAST/FSSP noncompliances and loss of employment noncompliances. The case worker will need to populate this date for manually entered noncooperations.

Type

This field describes the type of noncompliance. This will be populated by Bridges for cases that are being served by the one-stop service center, as well as for FAST/FSSP noncompliances and loss

of employment noncompliances. Case workers will need to select one of the options available from the drop-down list for manually entered noncooperations.

Noncooperation Description

This field describes how the client did not comply. This will be populated by Bridges for cases that are being served by the one-stop service center, as well as for FAST/FSSP noncooperations and loss of employment noncooperations. Case workers will need to select one of the options available from the drop-down list for manually entered noncooperations.

Date Triage Appointment Held

Date the triage appointment is scheduled or rescheduled.

Good Cause Status/Reason

Select the appropriate good cause reason from the drop-down list if the client verified a good cause reason for the noncompliance. Select the appropriate No Good Cause reason from the drop down list if the client does not have good cause for the noncompliance.

Date of Determination

Date good cause or no good cause determined.

**Good Cause
Established**

If the client establishes good cause within the negative action period, reinstate benefits; see *Good Cause for Noncompliance* in this item. Send the client back to PATH, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. Make any changes/corrections in Bridges to reflect the outcome of the noncompliance.

**Good Cause NOT
Established**

If the client does not provide a good cause reason for the noncompliance, determine good cause based on the best information available.

For individuals who are active Food Assistance Program (FAP) at the time of the FIP noncompliances; see BEM 233B, Failure to Meet Employment Requirements; FAP.

Medicaid

Bridges determines eligibility for Medicaid as part of the closure process.

**Overlapping
Negative Actions
and Client
Requests**

When FIP is expected to close for a reason unrelated to noncompliance (including verbal or written client request), use the following guidelines:

- If a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, is issued to a noncompliant person before his/her verbal or written request for case closure or for any other reason, proceed with the noncompliance determination. If the client does not have good cause for the noncompliance, follow procedures outlined in this item under Processing the FIP Closure.
- If a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, has not been issued before the verbal or written request for closure, or closure is initiated for any other reason, do not proceed with the noncompliance determination.

**Noncompliant
Member Leaves
The Home**

If the noncompliant member leaves the home before issuing a DHS-2444, Notice of Noncompliance, do not act on the closure. Enter a good cause reason for the pending noncompliance in Bridges.

If the noncompliant member leaves the home after Bridges closes the FIP EDG due to the noncompliance, the noncompliant member takes his/her individual penalty sanction and counter with him/her to a new group. The original group may reapply for FIP as there is no longer a noncompliant individual serving a current sanction in the group.

If it is reported to the department that the parent who affected the FIP EDG closure is out of the home and a new DHS-1171 is submitted, request a Front End Eligibility (FEE) investigation from the Office of Inspector General (OIG) to complete a home visit to verify the parent is out of the home. Do not determine eligibility on the pending FIP EDG until the FEE agent completes an investigation. Document the results of the home visit in the case file and in Bridges case comments.

If the noncompliant individual who is currently serving a sanction is eligible for FIP in a new group, the new group must serve the sanction.

Example: Bernard is serving a lifetime sanction and leaves Mary's home. Mary reapplies for FIP and reports that Bernard left the home. FEE verified this statement is true. Mary is approved for FIP. Sue reports Bernard has moved into her home and is a mandatory group member. Bridges will close Sue's FIP EDG for a lifetime sanction.

HEARINGS

Expedited Hearings

Staff must identify cases for MAHS (Michigan Administrative Hearings System) when a client files a hearing based on closure due to noncompliance with an employment and/or self-sufficiency related activity. MAHS has agreed to expedite these hearing requests in an effort to engage clients in a timely manner and improve the state's overall work participation rate. Write "**Expedited Hearing E&T**" at the top of the hearing request so that it can be easily identified as a priority. Refer to BAM 600, Expedited Hearings, for additional instructions.

Hearing Decisions

When a hearing decision is upheld for noncompliance, impose the penalty for the first full month possible for three months, six months or a lifetime sanction. Do not recoup benefits.

LEGAL BASE

MCL 400.57
42 USC 607